

the instant case disclose that the defendant has complied with the conditions set forth in subsection (1) and is therefore exempt from the penalties provided for in the Act. Our conclusion is substantiated by a consideration of the purpose of the exemption found in subsection (1). It is clear that it was designed to protect innocent dealers, such as the defendant, who receive goods shipped in interstate commerce. *U. S. vs. Parfait Powder Puff Company*, 136 F. 2d 1008. Thus, in Senate Report No. 493, 73d Congress, 2d Session, accompanying S. 2800, the Senate Committee reported as follows:

The existing law provides for a guaranty whereby a dealer who buys on faith may be protected from liability under the law. This provision has safeguarded innocent dealers and has been extremely useful in fixing responsibility on guilty shippers. It would be continued in effect by paragraph (e). The bill affords in this paragraph further protection to the innocent dealer who distributes goods he has received from interstate sources. If he has failed to secure a guaranty he can escape penalties by furnishing the records in interstate shipment, thus allowing the prosecution to lie solely against the guilty shipper.

It is clear, we think, that the Act was intended to furnish protection to innocent receivers of goods shipped to them in interstate commerce in violation of the Act. The defendant in the instant case is such an innocent dealer and should be afforded the protection. Further, the defendant is exempt from liability under the Act for the record discloses she cooperated with the Department as required by subsection (1). In April, 1947, Mr. Bell, an Inspector of the Department, came to the defendant's place of business and took some of the Protecto away with him for examination and the defendant, at his request, informed him of the name and address of the Laboratory from which she purchased it and supplied him with all data in connection therewith which he requested.

"Accordingly, a verdict and judgment finding the defendant, Bess J. Levine, an individual, trading as Miracle Food Company, not guilty will be entered."

2420. Misbranding of Johnson's Rheumatic Tonic and Blood Purifier. *U. S. v. Nathan G. Johnson (Johnson Drug & Chemical Co.).* Plea of guilty. Fine of \$50 and sentence of 6 months in prison; prison sentence suspended and defendant placed on probation for 3 years. (F. D. C. No. 24242. Sample No. 73534-H.)

INFORMATION FILED: April 2, 1948, Northern District of Alabama, against Nathan G. Johnson, trading as the Johnson Drug & Chemical Co., Birmingham, Ala.

ALLEGED SHIPMENT: On or about August 1, 1947, from the State of Alabama into the State of Ohio.

PRODUCT: Analyses disclosed that the product was a turbid brown liquid containing water, isopropyl alcohol, camphor, a resin, and a small amount of nitrite.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the label of the article were false and misleading, since they represented and suggested that the article would be efficacious in the cure, mitigation, and treatment of rheumatism, paralysis, fits, catarrh of the head, asthma, blood poison, colds, cramps in the stomach, colic, dyspepsia, deafness, headache, palpitation of the heart, palsy or nervous trouble, piles, tumors, indigestion, female complaint, general poison, kidney troubles, spots under eyes, diarrhea, weak nerves, old sores, ulcers, stiff neck, liver complaint, and tonsillitis; that the article would be effective as a rheumatic tonic and blood purifier; and that it contained 50 percent of alcohol. The article contained less than 50 percent of alcohol, and it would not be efficacious for the purposes represented.

Further misbranding, Section 502 (b) (2), the bottles containing the articles bore no label containing a statement of the quantity of the contents in terms of weight or measure.

DISPOSITION: May 21, 1948. A plea of guilty having been entered, the court imposed a fine of \$50 and sentenced the defendant to serve 6 months in prison. The prison sentence was suspended and the defendant was placed on probation for 3 years.

2421. Misbranding of Sa-Nos. *U. S. v. Emil Wolfram (Wolfram Co.).* Plea of guilty. Defendant fined \$300, given sentence of 6 months in jail, which was suspended, and placed on probation for 6 months. (F. D. C. No. 24259. Sample Nos. 24408-K, 25015-K.)

INFORMATION FILED: June 4, 1948, Southern District of Ohio, against Emil Wolfram, trading as the Wolfram Co., Columbus, Ohio.

ALLEGED SHIPMENT: On or about April 7 and July 26, 1947, from the State of Ohio into the States of Iowa and Minnesota.

PRODUCT: Analyses disclosed that the product was a yellowish aqueous liquid containing boric acid, iodides, and aromatics.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the label of the article were false and misleading, since the article would not be efficacious for the purposes represented. The label statements represented that the article would be efficacious in the treatment of ulcers, catarrhal condition of the stomach, diseases of the mucous membrane, sore throat, tonsils, quinsy, sore nose, sore gums, tongue, and mouth, leucorrhea, piles, inflammation of the bladder, fissure of the anus, prolapsus of the lower bowel, eczema, tetter, eruption, old itching sores, burns, boils, carbuncles, wounds, itching diseases and similar conditions indicated by the abbreviation "etc.," severe burns, and scalds.

DISPOSITION: June 7, 1948. A plea of guilty having been entered, the defendant was fined \$300 on count 1, sentenced to 6 months in jail on count 2, which sentence was suspended, and placed on probation for 6 months.

2422. Misbranding of Estrusol tablets and Estrusol in oil. U. S. v. Carroll Dunham Smith Pharmacal Co., Carroll Dunham Smith, Sr., Carroll Dunham Smith, Jr., and Joseph W. Kouten. Pleas of guilty. Company fined \$500; fine suspended and company placed on probation for 1 year. Imposition of sentence against individuals suspended and they were placed on probation for 1 day. (F. D. C. No. 17878. Sample Nos. 1038-H, 3121-H, 3122-H, 31426-H, 31444-H.)

INFORMATION FILED: December 13, 1946, District of New Jersey, against Carroll Dunham Smith Pharmacal Co., a corporation, Orange, N. J.; Carroll Dunham Smith, Sr., president and treasurer; Carroll Dunham Smith, Jr., secretary; and Joseph W. Kouten, director of laboratories.

ALLEGED SHIPMENT: Between May 2, 1944, and June 22, 1945, from the State of New Jersey into the States of North Carolina and California and the District of Columbia.

LABEL, IN PART: *Estrusol tablets.* (Bottle) "Estrogenic substances from pregnant mares' urine; principally estrone and estradiol."

Estrusol in oil. (Vials) "Estrogenic substance * * * From pregnant mares' urine. Contains principally estrone and estradiol"; (cartons) "Natural estrogenic substances (principally estrone and estradiol) from pregnant mares' urine."

NATURE OF CHARGE: Misbranding, Section 502 (a), the statements from the above-quoted labels were false and misleading. These statements represented and suggested that the estrogenic material present in the articles was estrogenic substance as it occurs in and is extracted from pregnant mares' urine, whereas the estrogenic material was not estrogenic substance as it occurs in and is extracted from pregnant mares' urine.

DISPOSITION: November 7, 1947. Pleas of guilty having been entered, the corporation was fined \$500; the fine was suspended and the corporation was placed on probation for 1 year. Imposition of sentence against the individuals was suspended and they were placed on probation for 1 day.

2423. Misbranding of Sul-Ray Colloidal Sulphur Mineral Baths. U. S. v. Sante Chemical Co., Inc., and Isaac Salzman. Pleas of guilty. Fine of \$500 against defendants jointly. (F. D. C. No. 20206. Sample Nos. 4062-H, 4091-H.)

INFORMATION FILED: October 23, 1947, Southern District of New York, against the Sante Chemical Co., Inc., New York, N. Y., and Isaac Salzman, secretary.

ALLEGED VIOLATION: On or about December 15, 1944, and January 6, 1945, the defendants shipped from the State of New York into the State of Pennsylvania various quantities of *Sul-Ray Colloidal Sulphur Mineral Baths*. The defendants were charged also with giving a false guaranty. The guaranty was given by the defendants on or about February 7, 1945, to the National Healthaids, Inc., New York, N. Y., and guaranteed that drug preparations manufactured by the defendants and sold to the National Healthaids, Inc., would comply fully with the provisions of all laws, State or Federal. On or about February 28, 1945, the defendants delivered a quantity of *Sul-Ray Colloidal Sulphur Mineral Baths* to the National Healthaids, Inc., and on April 4, 1945, the latter firm shipped the product from the State of New York into the State of Pennsylvania. The product so guaranteed and shipped was misbranded.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in a leaflet entitled "Sul-Ray Colloidal Sulphur Mineral Baths," which was enclosed